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August 12, 2009

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

**Re: Notice of Ex Parte Meeting
WC Docket Nos. 04-36, IP-Enabled services; 01-92, Developing a Unified Inter-carrier
Compensation Regime**

Dear Ms. Dortch:

On August 11, 2009 TDS Telecom companies in New York, New England and Georgia, represented by Mike Reed of TDS, a New York State Telephone Association member; Roger Nishi of Waitsfield and Champlain Valley Telecom, representing the Telephone Association of Vermont; Tom McCabe of TDS in Georgia, Joe Douglas and the undersigned, both of NECA, met with Priya Aiyar of Chairman Genachowski's office to discuss access arbitrage by interconnected VoIP providers and other carriers.

In particular, the companies discussed the rapid growth of access minutes terminating on their company networks by interconnected VoIP providers and other carriers which refuse to pay. This growth is part of a national trend to send voice traffic to ILEC networks without compensation for use of those networks. The companies discussed how this trend will continue as VoIP inevitably enjoys broader adoption.

Discussion also centered on how courts in various States have been left in limbo pending decisions from the Federal Communications Commission. Finally, member companies showed how crucial access revenue is to their deployment of advanced services and the broadband network upon which those services depend. The companies discussed the real-world impact of the loss of access minutes and associated revenue on their ability to provide service to rural consumers. These messages are summarized in the attached material.

Sincerely,

A handwritten signature in black ink, appearing to read "Colin Sandy". The signature is fluid and cursive, with a large, stylized 'C' and 'S'.

Colin Sandy

cc: Julius Genachowski, Chairman
Michael Copps, Commissioner
Robert McDowell, Commissioner
Mignon Clyburn, Commissioner
Meredith Attwell Baker, Commissioner
Julie Veach, Acting Chief, WCB
Marcus Maher, Associate Bureau Chief, WCB
Victoria Goldberg, WCB
Jennifer Prime, WCB



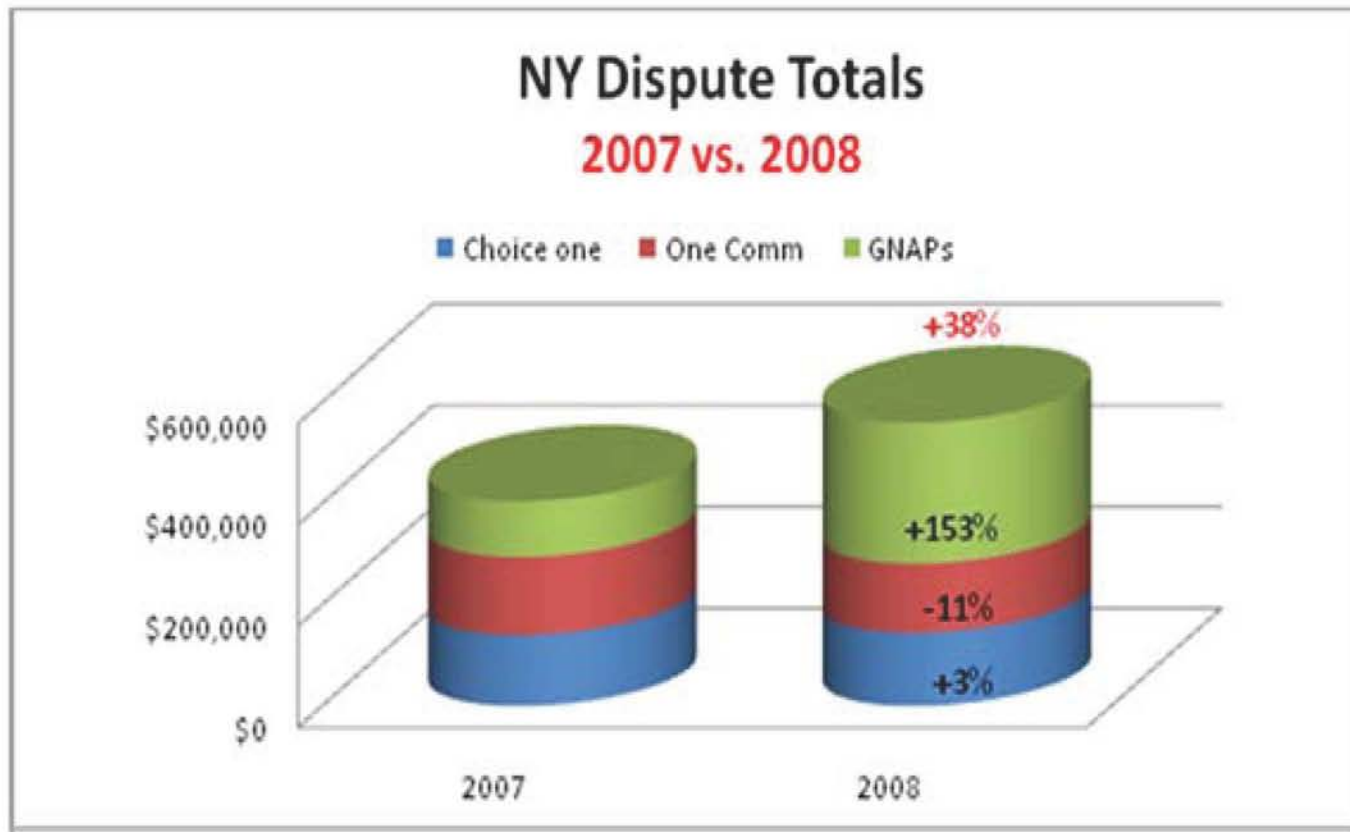
***Access Arbitrage
The Case in New York, New
England, and Georgia***

WC Docket Nos. 04-36, 01-92

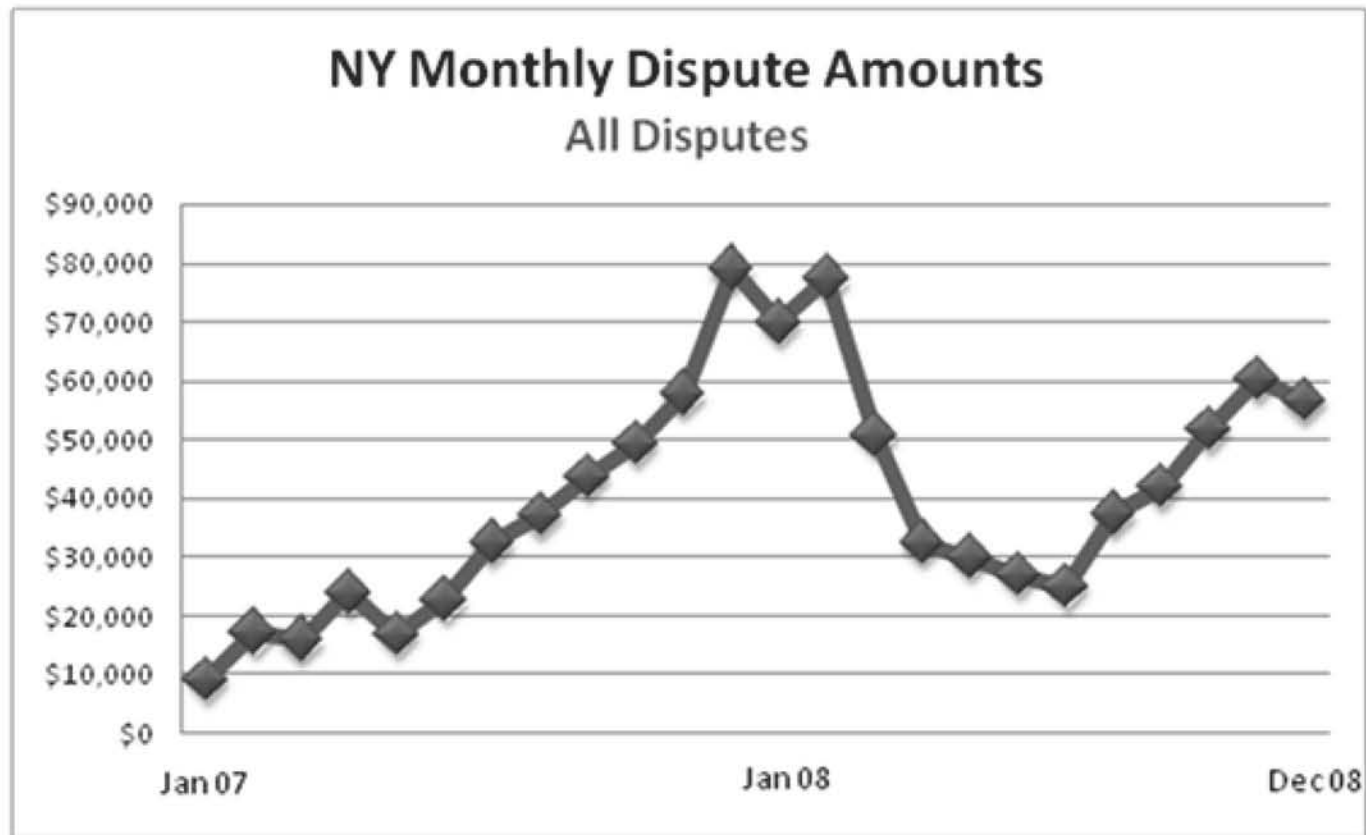
Rural Broadband Deployment

- Broadband is the medium through which today's most innovative applications reach consumers in even the most remote areas.
- Rural telephone companies have a proven track record of providing broadband services to their customers.
- Continued access arbitrage threatens the very network needed to support current applications and make future innovation possible.
- Commission action is needed now to provide greater regulatory certainty and incentive for investment needed to continue bringing broadband to rural consumers.

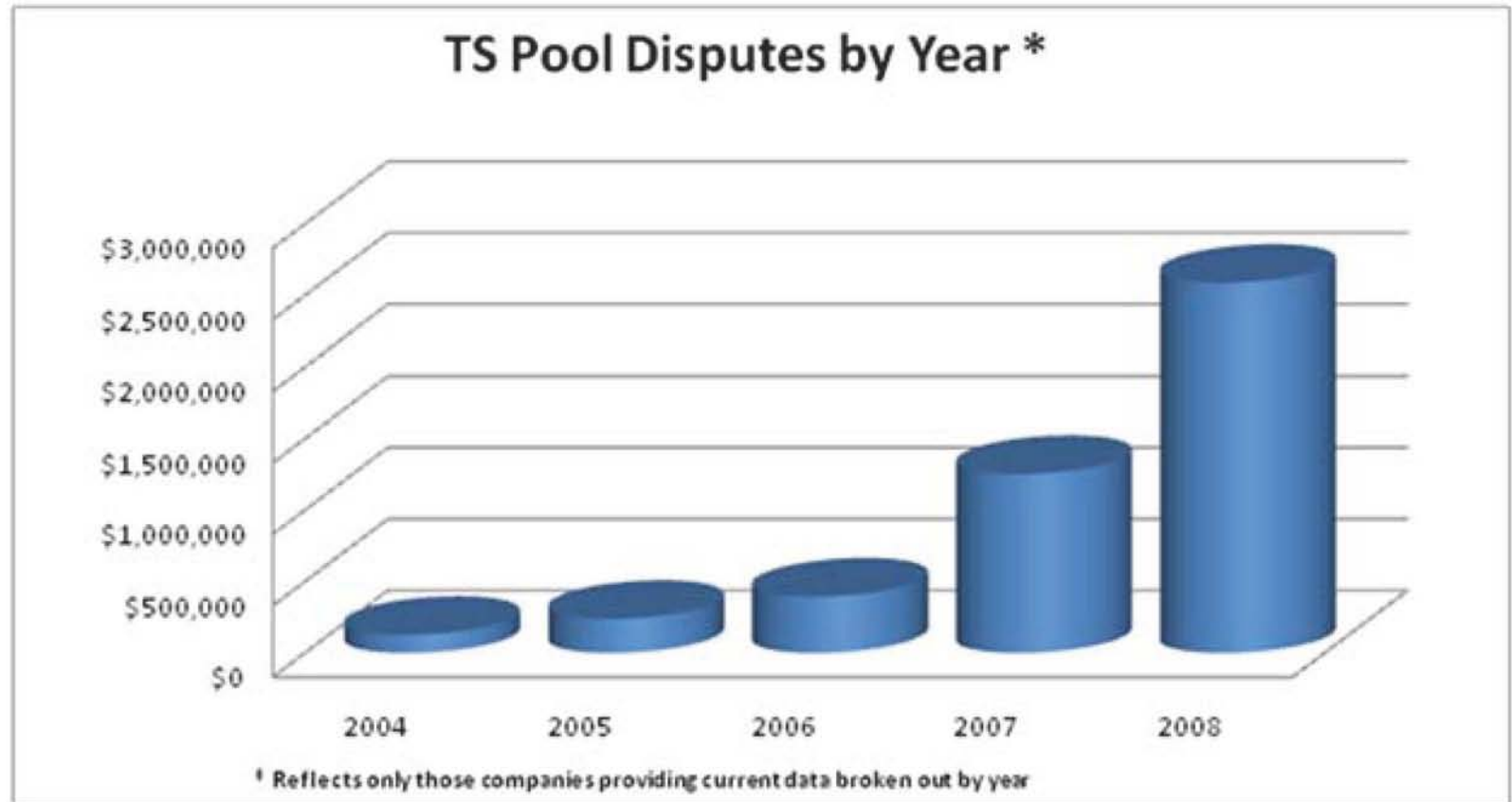
Carriers Are Refusing to Pay Access Charges for Terminating Voice Calls on the PSTN – and the Problem is Growing



The Traffic is Often Hard to Detect As Carriers Can Redirect Traffic Quickly



New York Problem is Part of a Nationwide Trend



Georgia Companies Data

3 Georgia TDS Companies - Dispute Totals
Jan 2004 - Mar 2009
\$635,308

■ GNAPs ■ CommPartners ■ Others



The FCC Is Treating VoIP Like It Is POTS

Feb 2004	Pulver.com	Computer-to-computer VoIP is enhanced
April 2004	AT&T IP-in-the-Middle	Calls originating & terminating on PSTN are telecom services
Nov 2004	Vonage	Nomadic VoIP preempted to interstate
June 2005	E911	Applied to interconnected VoIP
Sept 2005	CALEA	Applied to interconnected VoIP
June 2006	USF Contributions	Applied to interconnected VoIP
March 2007	CPNI	Applied to interconnected VoIP
March 2007	Time Warner	Confirmed interconnection rights for wholesale carriers who provide service to VoIP providers
Aug 2007	Fed Reg fees	Applied to interconnected VoIP
Nov 2007	LNP	Extended to interconnected VoIP
May 2009	Discontinuance Notification	Service discontinuance notice must be sent to customers

Vermont and New Hampshire Cases

- February 2008, a number of New Hampshire TDS companies filed a petition with the PUC to block GNAPS traffic from terminating on local networks as GNAPs has refused to pay terminating access charge bills.
- September 2008, the PUC ordered GNAPs to produce information pursuant to discovery, then ordered GNAPs to produce more information in October.
- Currently an order is pending on TDS motion for a performance bond.
- March 2009, TDS companies filed a complaint against GNAPs with the Vermont PSC
- July 2009, Vermont PUC ordered GNAPs to produce information pursuant to discovery.

The FCC's Failure to Confirm Access Charges Apply is Tying Up Courts and State PUCs

Sample of Cases:

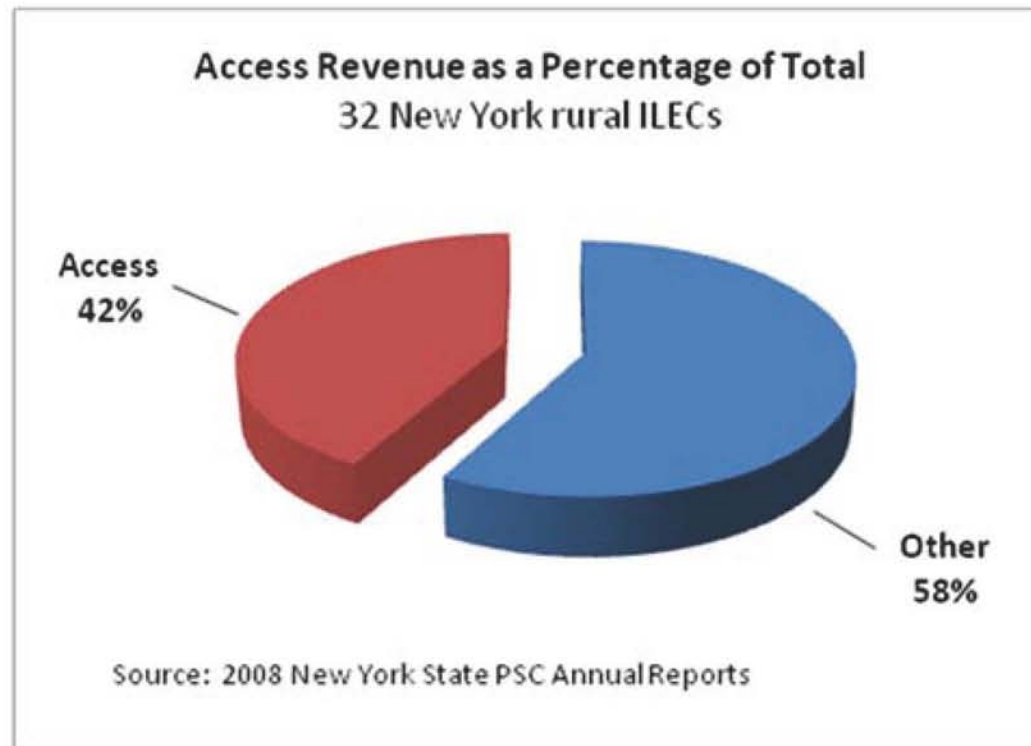
Missouri District Court February 2006	<i>Southwestern Bell Tel v. Global Crossing</i>	Stayed, pending FCC decision on applicability of access to VoIP
U.S. District Court Conn., June 2008	<i>Southern New England Telephone v. Global NAPS</i>	Claims on IP-related transmissions stayed pending FCC determinations; award of \$5.25m granted for other traffic
Washington UTC June 2007	<i>Qwest v. Level 3</i>	Refrained from setting compensation until FCC rules on regulatory status of VoIP
New York PSC March 2008	<i>Tech Valley Comm v. Global NAPS</i>	Concluded GNAPs' traffic is nomadic VoIP, but ordered ICA negotiations to address it
Montana District Court April 2008	<i>3Rivers, et al. v. CommPartners</i>	Stayed, pending FCC decision on applicability of access to VoIP

Some Courts & PUCs Have Seen Through the Absurd Arguments

NY District Court, 2006	Verizon NY vs. GNAPs	Denied motion to defer jurisdiction to FCC in case on an ICA dispute over VNXX ISP-bound traffic
Calif PUC, 2007	Cox Calif vs. GNAPs	Ordered GNAPs to pay termination charges for interexchange calls pursuant to ICA, then suspended GNAPs' license in the state for nonpayment
Calif PUC, 2008	AT&T vs. GNAPs	Ordered GNAPs to pay termination & transit charges for interexchange calls pursuant to ICA
GA, FL & NC PUC, 2003 – 2007	BellSouth/ AT&T vs. GNAPs	Gained PUCs' permission to terminate GNAPs' service for nonpayment of access charge bills pursuant to ICA
Georgia PUC, April 2009	Blue Ridge & 4 other ILECs vs. GNAPs	Found GNAPs is legally obliged to pay tariffed access charges
Penn PUC June 2009	Palmerton vs. GNAPs	Ordered to post a surety bond for disputed access bills and applied daily penalties until it is done
Texas PUC, June 2009	AT&T Texas vs. UTEX (aka FGIP)	The type of customer UTEX serves does not obviate its contractual obligations to pay access charges on no-CPN and PSTN-to-PSTN interLATA traffic. Most of the calls were PSTN-to-PSTN. ICA.

Today's Networks Need a Stable Revenue Base to Deploy Tomorrow's Services

- Access represents 42% of operating revenues for New York Rural ILECs.
- Without stable revenue, broadband deployment is not possible.



Next Steps

- FCC must:
 - Confirm existing intercarrier compensation rules remain in effect pending conclusion of IP-Enabled Services and ICC reform proceedings.
 - Allow carriers to exercise all tariff remedies.
- Doing so will:
 - Help promote stability in the marketplace
 - Enable retention and creation of good jobs in rural communities
 - Incent investment in rural areas
 - Enable continued rural telephone company deployment of advanced services to customers.